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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/595,557	06/14/2000	Robert C. Dixon	226/132	1401
7590	12/17/2003			EXAMINER
MICHAEL A. DeSANCTIS BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP 12400 WILSHIRE BOULEVARD SEVENTH FLOOR LOS ANGELES, CA 90025-1026			MOORE, JAMES K	
			ART UNIT	PAPER NUMBER
			2686	20
DATE MAILED: 12/17/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/595,557	DIXON, ROBERT C.	
	<b>Examiner</b>	<b>Art Unit</b>	
	James K Moore	2686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 September 2003.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 2-6, 12-20, 22, 24 and 25 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 2-6, 12-20, 22, 24 and 25 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 14 June 2000 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____ .

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments filed September 17, 2003 have been fully considered but they are not persuasive.

Regarding claims 2-6, the applicant argues that there is no disclosure of cells in the Chuang reference (U.S. Patent No. 5,212,831), and that Chuang's portable telephone system is not equivalent to a cellular radio communication system. However, this argument is not persuasive. The geographic coverage area of a wireless base station is commonly known in the art as a cell, even if the wireless communication system of which the base station is a part is not conventionally referred to as a cellular radio communication system. See, e.g., pp. 1-2 and Fig 1.1 of the Lee reference, "Mobile Cellular Telecommunications." The examiner therefore maintains the position that the geographic coverage area of each of the radio ports in the Chuang reference is a cell, even though Chuang may not refer to the system as a cellular radio communication system.

Regarding the 35 U.S.C. 251 rejections, the examiner notes the applicant's statement that it will submit a supplemental reissue oath/declaration upon resolution of the prior art rejections.

***Reissue Applications***

2. The original patent, or a statement as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.

3. In accordance with 37 CFR 1.175(b)(1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

Claims 2-6, 12-20, 22, 24, and 25 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251. See 37 CFR 1.175. The nature of the defect is set forth above.

Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

***Claim Rejections - 35 USC § 102***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 2 and 4-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Chuang et al. (U.S. Patent No. 5,212,831).

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Regarding claim 4, Chuang discloses a wireless communication system (5). See col. 10, lines 22-27. The system comprises a pattern of cells, and a base station (port 30, 40, 50, or 70) dynamically assigned a first transmission frequency for transmitting to a first cell in the pattern of cells. The first transmission frequency is not assigned to any base station for transmitting to any cell in the pattern of cells adjacent to the first cell. See col. 10, lines 47-49; col. 11, lines 56-57; col. 12, lines 8-58; and col. 13, lines 8-14. The system also comprises user stations (portables) each assigned a second transmission frequency for transmitting to the base station for the first cell. The second transmission frequency is not assigned to any user station in any cell in the pattern of cells adjacent to the first cell. The base and the user station communicate using TDMA. See col. 11, lines 34-48.

Regarding claim 2, Chuang discloses all of the limitations of claim 4, and also discloses that the first transmission frequency is from a first set comprised of a limited first predetermined number of frequencies, the second transmission frequency is from a second set comprised of a limited second predetermined number of frequencies, and the first set of frequencies is different than the second set of frequencies. See col. 12, lines 20-23 and 30-34.

Regarding claim 5, Chuang discloses all of the limitations of claim 4, and also discloses that the user stations in the first cell are dynamically assigned the second transmission frequency. See col. 12, lines 29-34.

Regarding claim 6, Chuang discloses a wireless communication system (5). See col. 10, lines 22-27. The system comprises a pattern of cells, and a base station (port

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30, 40, 50, or 70) assigned a first transmission frequency for transmitting to a first cell in the pattern of cells. The first transmission frequency is not assigned to any base station for transmitting to any cell in the pattern of cells adjacent to the first cell. See col. 10, lines 47-49; col. 11, lines 56-57; col. 12, lines 8-58; and col. 13, lines 8-14. The system also comprises user stations (portables) each assigned a second transmission frequency for transmitting to the base station for the first cell. The second transmission frequency is not assigned to any user station in any cell in the pattern of cells adjacent to the first cell. The base and the user station communicate using TDMA, and transmissions between the base station transmitting to the first cell and the user stations in the first cell are time division duplexed. See col. 10, lines 22-31.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Moore, whose telephone number is (703) 308-6042. The examiner can normally be reached on Monday-Friday from 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold, can be reached at (703) 305-4379.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Ken Moore

12/11/03

JLW

*Marsha D. Banks-Harold*

MARSHA D. BANKS-HAROLD  
SUPERVISORY PATENT EXAMINER  
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